

Airport Transport, Inc. filed an application for a certificate of public convenience and necessity authorizing the transportation of passengers and their baggage by motor vehicle, in special operations service, over irregular routes between the Dulles International Airport, on one hand, and, on the other, points and places in Montgomery County, Maryland, serving no intermediate points. Notice of the application and hearing was given as required by the Commission. Hearings on this application were held October 11, 12 and 19, 1962, before Examiner Russell W. Cunningham. Portions of the hearings were consolidated with hearings held in Docket Nos. 28 and 30. Eight (8) witnesses, including applicant's company witness, testified in support of the application. The Washington, Virginia and Maryland Coach Company withdrew its protests to this application during the second day of hearings.

A total of thirty-one (31) exhibits was received into evidence in this proceeding, twenty-eight (28) submitted by the applicant, and three (3) by the intervenor, Montgomery Charter Service.

Prior to November 17, 1962, residents of the Washington metropolitan area were provided airline transportation at Washington National Airport, Gravelly Point, Virginia (propeller aircraft) near Washington, D. C., and Friendship Airport, near Baltimore, Maryland (jet and propeller aircraft) approximately twenty-seven (27) miles from Washington, D. C.

Dulles International Airport, near Chantilly, Virginia, approximately twenty-seven (27) miles from Washington, D. C., is designed to handle all types of aircraft. Many airlines operating to and from Washington National Airport and Friendship Airport, as well as others, will hereafter be operating to and from Dulles International Airport.

The commercial ground passenger transportation required to serve Dulles International Airport will be bus, limousine and taxi similar to the service now provided to and from Friendship Airport.

The applicant has been performing a specialized ground transportation service for airline passengers in the Metropolitan District for many years. It has a subsidiary company, Airport Transport, Inc. of Virginia, which provides a specialized taxicab service from Washington National Airport and an affiliate company, Airline Transport, Inc., which was organized for the purpose of providing ground transportation for airline passengers traveling between the Washington area and Friendship Airport during the temporary period when jet flights serving the City of Washington were being operated from Friendship because of the delay in constructing and completing the Dulles Airport. There is a very close and direct connection between the applicant and its affiliate and subsidiaries. The organizations have common officers and directors and frequently lease or exchange vehicles and utilize the same personnel. Prior to the enactment of the Compact and the creation of this Commission, portions of the applicant's operations were exempt from regulation and portions extended beyond the Metropolitan District. On March 22, 1961, the effective date of the Compact, all of the applicant's operations within the Metropolitan District became subject to the jurisdiction of this Commission, including the transportation of passengers having a prior or subsequent movement by air, which transportation prior to March 22, 1961, was exempt from regulation under the Interstate Commerce Act. Consequently, the applicant seasonably filed a "grandfather" application with this Commission. The intervenors have formally attacked the bona fides of portions of the transportation claimed under the "grandfather" application. At the beginning

of the hearings, the intervenors moved to suspend this proceeding until disposing of the applicant's "grandfather" application. The Examiner denied the motion and, we feel, rightly so. The objections to the "grandfather" application go to claimed transportation between Washington National Airport and Montgomery County, whereas this application seeks authority to operate between Montgomery County and the new Dulles International Airport. Whatever the outcome of the "grandfather" application, the Commission feels that this matter should stand on its own merits and be judged accordingly. The intervenors allege that their complaints are pertinent here, because they raise the question of applicant's fitness. However, all of applicant's operations have been conducted under claimed grandfather rights or "color of title," with prior and full knowledge to this Commission. Furthermore, applicant never has been shown to have knowingly or wilfully operated unlawfully in violation of any rule or regulation of this or any other regulatory agency. Under these circumstances and the evidence of record in this case, applicant has proven its fitness to the satisfaction of this Commission.

Throughout the hearing, the intervenor, Montgomery Charter Service, made frequent objections to testimony of service rendered by an affiliate of the applicant. As hereinbefore discussed, the close and direct connection between the applicant and its affiliate and the temporary operation of jet flights from the Friendship Airport, pending completion and opening of the new Dulles Airport, makes it mandatory that the Commission consider the past operations of the affiliate. The organizations, as we have said earlier, have common officers, and the entire method of operation, both of the applicant and affiliate, is very similar. We feel that the explanations relating to the past service of the affiliate are a great aid in our determination of the applicant's fitness and ability to perform the transportation it seeks us to authorize.

One witness testifying in behalf of the applicant was a representative of the Federal Aviation Agency. This Agency is in charge of operating Dulles International Airport, and quite naturally the Agency is desirous of having the ground transportation of airline passengers handled adequately and as efficiently as possible. In fact, the Agency has entered into a five-year franchise agreement with Airport Transport, whereby certain facilities and other special arrangements have been granted to the applicant in payment of a franchise fee. Prior to the creation of this Commission, the only regulation exercised over applicant was by the Federal Aviation Agency, which regulation was pursuant to past franchise arrangements.

The applicant and intervenor, Montgomery Charter Service, stipulated during the hearing that there was a need for public

transportation between Montgomery County and the Dulles International Airport. However, Montgomery Charter Service strongly asserted that this need could be met and fulfilled by the use of taxicab or limousine type vehicles accommodating eight (8) passengers or less, operations by which type of vehicles are exempt from the certificate provisions of the Compact when performing a "bona fide" taxicab service. The applicant, on the other hand, equally ardent in its argument, advocates that it should be authorized to operate larger type limousines seating as many as twelve (12) persons, as well as luxury-type bus equipment, in order to properly handle its passenger traffic, particularly during peak travel periods, because prior experience in connection with similar operations to the Friendship Airport have required the frequent use of such equipment. It claims that a large number of people can be transported more economically and more efficiently in the larger limousine and bus type equipment than in several taxicab or smaller type limousine vehicles, particularly because jet traveling passengers are traveling longer distances and often travel with considerable baggage which alone requires considerable additional vehicle space.

Six (6) public witnesses appeared and testified in support of the application. Their testimony was, generally, that all were residents of Montgomery County, and almost without exception, work in the District of Columbia; that they travel by air in varying degrees of frequency; that they all anticipated using the facilities of Dulles International Airport and also that they had all used applicant's service, or the service of its affiliate in the past and that they had found the service to be excellent. One of these witnesses, in addition to testifying in an individual capacity, appeared with a letter of authorization from a chamber of commerce organization. The letter (Exhibit No. 6) purported to authorize the witness to appear and state the position of the Chamber of Commerce and outlined the scope of the authorization. The witness had no personal knowledge as to what extent the officers or members of the Chamber participated in this authorization. The Examiner admitted the exhibit for the limited purpose of establishing the authorization for the witness to appear and testify on behalf of the Chamber of Commerce. However, the witness knew virtually nothing concerning the letter of authorization and how it was arrived at, and his testimony contributed no evidence whatsoever, insofar as representing the Chamber of Commerce, to this proceeding.

Upon the evidence adduced at said hearings, the Commission is of the opinion and finds that public convenience and necessity does and will require the proposed transportation; that the applicant is fit, willing and able to perform such transportation; and that a certificate of public convenience and necessity authorizing such transportation should be granted to the applicant.

THEREFORE, IT IS ORDERED:

1. That Certificate of Public Convenience and Necessity No. 7-A be, and it is hereby, granted to Airport Transport, Inc., to transport passengers for hire in interstate commerce as follows:

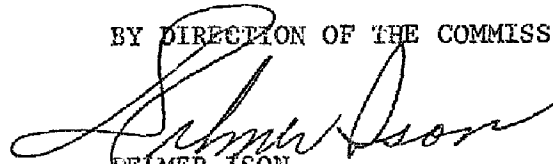
IRREGULAR ROUTE SPECIAL OPERATIONS:

Passengers, and their baggage, in special operations. Between the Dulles International Airport, on the one hand, and, on the other, points and places in Montgomery County, Maryland, serving no intermediate points.

2. That unless compliance is made by said applicant with the tariff and insurance requirements of the Commission within thirty (30) days after the date of this order, the granting of authority given in this order shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the compliance time set forth above.

3. That in all other respects, the application be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:


DELMER ISON
Executive Director